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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,542

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Bernd Wilms

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EXAMINER

BLACK, MELISSA ANN

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/507,542	Applicant(s) WILMS ET AL.	
	Examiner MELISSA A. BLACK	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-11, 13 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/21/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-11, 13-24 are pending in the application, claims 1-11, 13 and 17 are withdrawn, and Claims 14-16 and 18-24 are rejected as set forth below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. “wherein slide shoes of only the uppermost closure element of the stack closure elements is disposed in the longitudinal guide track during stacking and unstacking.”. Paragraph [0035] discloses that each panel 8-10’ has two slide shoes on each side, which engage the guide track 20 in order to allow for sliding movements. The above claims contain new subject matter.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 14, 15, 16, 18, 19, and 20 are rejected under 35 U.S.C. 102(b) as being unpatentable over German Pat NO DE 44 04 618 to Fussnegger, et al.

Regarding claims 14 and 18, Fussnegger, et al. disclose (Fig 5-8) a vehicle having a body including at least a fixed roof and having a roof assembly for opening an opening 13 in said

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roof, comprising a plurality of closure elements 32a-e each element having a front and rear slide shoe on each side of the closure element, said closure elements are at least movable between a closed position for closing the roof opening, and an open, rearwardly displaced position substantially below the fixed roof, wherein the roof assembly further comprises at least one common longitudinal guide track 33 extending at least along the roof opening with the closure element, said closure elements being guided by said longitudinal guide track by means of slide shoes 68,69, said guide track including first and second storage tracks 37a-e opening into the guide track from below in order to accommodate the slides of the closure elements so as to stack the closure elements in a stack unit one above the other in their open position below the fixed roof wherein the front slide shoe is in the first storage track and the rear shoe is in the second storage track (see figure 7). Fussnegger, et al. further disclose the closure elements have side sections, the side sections of two adjacent closure elements being coupled together in guided sliding contact with each other during stacking and unstacking of the plurality of closure elements as can be seen in (Figure 7).

As to claims 15 and 19, Fussnegger, et al. disclose the front portion of the longitudinal guide track extending at a higher level than a rear portion thereof, the rear portion of the longitudinal guide track having an upper side branch 38 to accommodate the rear slide shoe of the rear closure element in the closed position of the roof assembly, while all other slide shoes are in the higher front portion of the guide track. It is an obvious expedient to shape the slide shoes differently from the front to the rear of the roof sections.

As to claims 16 and 20, Fussnegger, et al. disclose one front closure element is operatively connected to a drive and wherein the closure elements are connected to each other

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through disconnectable connecting members, which are constructed such that they disconnect the closure elements before they are stacked in the open position, and they connect the closure elements again when they are returned to the closed position, wherein the connecting members are adapted such that they only act when there is exerted a pulling force on the closure elements, while the closure elements are provided with separate pushing surfaces acting to push a preceding closure element when a pushing force is exerted on the closure element.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over German Pat NO DE 44 04 618 to Fussnegger, et al in view of US Pat # 5,421,635 to Reinsch et al.

The Above 102 rejection is hereby referenced.

Fussnegger et al failsto disclose that the each closure panel moves a different vertical distance during stacking and unstacking.

Reinsch et al teaches the panels moving different distances in the vertical direction (see Figure 5).

It would have been obvious to one with ordinary skill in the art to have the panels stack at different vertical heights as taught by Reinsch et al on the device of Fussnegger et al in order to have each panel stack one above the other and not interfere with each other.

Response to Arguments

Applicant's arguments filed 10/21/2008 have been fully considered but they are not persuasive. Applicant argues that the side sections of Fussnegger et al. are not guided in sliding

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contact during stacking and unstacking of the closure elements; however it is clear from the figures of Fussnegger et al. alone that in order for the invention to work as intended, the side sections *must* be in guided sliding contact when in the stacked and unstacked configuration. Each side section is biased into engagement with the next closure element so that the forward or rearward engaging portion becomes engaged with the next forward or rearward engaging portion. Fig 7 of Fussnegger et al. shows the top portion of the closure elements 32b, c, and d in sliding engagement with the bottom portions of closure elements 32c, d, and e, respectively at an intermediate portion (of the side sections) of each of said closure elements. For example in Fig 7, the line that constitutes the top of closure element 32b (shown as numeral 63 for closure element 32a) is collinear with the line that constitutes the bottom (35b for closure element 32b in Fig 8) and therefore inherently implies a sliding engagement. As for guided, each panel is guided by the guides 37a–d.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melissa A Black/
Examiner, Art Unit 3612

/Hilary Gutman/
Primary Examiner, Art Unit 3612